



# PUBLIC NOTICE

**Federal Communications Commission**

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**DA 18-675**

**Released: July 2, 2018**

## **CHANGES AND UPDATES TO TOWER CONSTRUCTION NOTIFICATION AND E-106 SYSTEMS ON JULY 2, 2018**

**WT Docket No. 17-79**

This Public Notice describes changes and updates to the FCC's Tower Construction Notification System (TCNS) and Electronic Section-106 System (E-106).<sup>1</sup> These changes are being made to implement the Commission's *2018 Infrastructure Second Report and Order*, which was released on March 30, 2018,<sup>2</sup> and whose rules are effective for TCNS and E-106 filings submitted on or after July 2, 2018. To make this transition possible, effective immediately TCNS has stopped accepting new submissions, and E-106 will stop accepting new submissions at **6:00 a.m. EDT, Friday, July 6, 2018**.<sup>3</sup> Both systems will resume accepting new submissions at **10:00 am EDT on July 6, 2018**.

### **Changes Affecting Applicants and Their Consultants**

The following changes are relevant primarily to applicants and their consultants conducting Section 106 review for a proposed construction:

- A new line has been added to all E-106 email and letter notifications of a Form 621 "Collocation Submission Packet." The new line asks, "Has the Communications Tower or Non-Tower

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<sup>1</sup> TCNS is a system that allows applicants and licensees to submit notifications of proposed tower constructions to federally-recognized Indian Tribes, Tribal Historic Preservation Officers (THPOs), Native Hawaiian Organizations (NHOs), and State Historic Preservation Officers (SHPOs), as required by Section 106 of the National Historic Preservation Act. TCNS is linked to E-106, a separate system that enables real-time exchange of information and documents necessary to complete and clear the Section 106 process required by FCC rules.

<sup>2</sup> *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Deployment*, Second Report and Order, FCC 18-30 (Rel. Mar. 30, 2018) (*2018 Infrastructure Second Report and Order*).

<sup>3</sup> Any filings made today before TCNS went offline will be held for inclusion in the Weekly Notice of Tower Construction Notification System Filings that will be sent to Tribes on July 11<sup>th</sup>.

Structure been the subject of a SHPO/THPO review?” and provides a “yes” or “no” response to that question.<sup>4</sup>

- Purpose: Enables Tribal reviewers to identify quickly whether the underlying structure went through Section 106 review when constructed.
- A new checkbox has been added in TCNS to allow applicants to indicate that a submission is excluded from SHPO Review when submitting a new TCNS notification.
  - Purpose: Identifies projects for which Forms 620/621 are not required to initiate Tribal reviews.
- A new “Alternate Submission Packet” option has been added to the Attachment Utility in TCNS. The “Alternate Submission Packet” will be required if the “Structure Excluded from SHPO Review” box has been checked.
  - Purpose: Ensures that applicants upload – and Tribal reviewers have access to – all required information prior to the start of the review clock.
- A “Structure Excluded from SHPO Review” icon will be displayed next to each notification entry, if applicable, on the “Notifications Home” and “Notification Details/Update Status” screens. A description of that icon will also be added to the Key/Legend box on those screens.
  - Purpose: Enables Tribal reviewers to identify easily projects that the Nationwide Programmatic Agreement (NPA) establishes as having minimal potential to affect historic properties.
- The “Notice of Organization(s) Which Were Sent Proposed Tower Construction Notification Information” emails will indicate if the project is excluded from SHPO review.
  - Purpose: Identifies projects for which Forms 620/621 are not required to initiate Tribal reviews.
- The “Second Contact Date” column has been removed from all TCNS referral pages, and references to “First Contact Date” have been changed to “Contact Date.”
  - Purpose: Reflects the elimination of the requirement that an applicant attempt a second follow-up contact prior to a filing being eligible for referral.
- A new field titled “Form 620/621 available on:” has been added to the TCNS Notification Details page. The new field displays the date on which Tribes are notified of a related E-106 filing.
  - Purpose: Identifies when the review clock starts (when Form 620/621 is available).

### **Changes Affecting Tribal Reviewers**

The following changes are relevant primarily to Tribes, THPOs, or NHOs in the Section 106 process:

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<sup>4</sup> This question is identical to Question No. 18 on the Form 621.

- System change implementation on July 2, 2018 will remove all current text provided by Tribes in the “Additional Details” box.<sup>5</sup>
  - Purpose: Clears information in the Additional Details box to ensure compliance with the types of information requests permitted, consistent with the updates made in the *2018 Infrastructure Second Report and Order*.
- When Tribes submit text in the “Additional Details” box, it will be reviewed by FCC staff before it is published in the system as direction to applicants. When Tribes enter proposed text in the box, the status will be “Pending FCC Approval.” If the FCC approves the text,<sup>6</sup> the status will change to “FCC Approved” and an email, or if no email is available by US mail, will be sent notifying the Tribe of the approval. The new language will then be sent to applicants submitting TCNS notices.
  - Purpose: Provides the FCC an opportunity to review proposed language before it is placed into the TCNS system to ensure that the TCNS system does not display information that is inconsistent with the *2018 Infrastructure Second Report and Order*.
- For each TCNS submission, E-106 will now send the relevant Tribe(s) either a “Notification of New Filing” email or “Informational Notice of Section 106 Filings” paper letter when a FCC Form 620 or 621 is submitted in E-106. Tribes that elect to receive notifications through email only will receive the “Notification of New Filing” email. Tribes that elect to receive notifications by US Mail only will receive the “Informational Notice of Section 106 Filings” letter. A Tribe that has elected to receive both email and US Mail notifications will receive both forms of notification. Tribes that indicate no interest in a proposed construction will not receive either notification.
  - Purpose: Ensures Tribal notification in the preferred format when the Form 620/621 is available.
- The 30-day Tribal review period will not begin until the Form 620 or 621 is submitted in E-106, or the Alternative Submission Packet is uploaded in TCNS. TCNS will not permit referrals until 30 days after provision of the relevant form or Alternative Submission Packet for Tribes receiving information electronically, and 35 days for Tribes using only US mail.
  - Purpose: Establishes the review period deadline for a Tribe to review a Submission Packet while ensuring that Tribes have complete information before the review period begins.
- Two new lines have been added to the Form 620/621 filing information in the “Notification of New Filing” email and “Informational Notice of Section 106 Filings” paper letter. The first is a “Tribal Review Period End Date,” which displays the last date that a Tribe can reply before an applicant can refer a Tribe to the FCC for failing to respond. That date will be 30 days (if notice

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<sup>5</sup> Prior to TCNS going back online on July 6<sup>th</sup>, Tribal Nations and NHOs may submit new text by sending it to [tcnshelp@fcc.gov](mailto:tcnshelp@fcc.gov).

<sup>6</sup> Staff will notify a Tribe in the event that language for the Additional Details box cannot be approved as submitted.

is sent by email) or 35 days (if notice is sent only by US mail) after notification is sent.<sup>7</sup> The second line asks “Has the Communications Tower or Non-Tower Structure been the subject of a SHPO/THPO review?” and provides a “yes” or “no” response to that question.<sup>8</sup>

- Purpose: Ensures that the deadline for Tribal review and the earliest date for FCC referral is clearly identified, and enables reviewers to identify whether the underlying tower went through Section 106 review when constructed.
- A “Structure Excluded from SHPO Review” icon will be displayed next to each notification, if applicable, on the “Notifications Details,” “Reply to a Notification,” and “Notification Search Results” screens. A description of that icon will also be added to the Key/Legend box on those screens.
  - Purpose: Identifies for Tribal reviewers projects that have minimal potential to affect historic properties under the NPA, and for which Forms 620/621 are not required to initiate reviews.
- The “Weekly Notice of Tower Construction Notification System Filings” emails and letters will indicate if a project is exempted from SHPO review.
  - Purpose: Identifies for Tribal reviewers projects that have minimal potential to affect historic properties under the NPA, and for which Forms 620/621 are not required to initiate reviews.
- The Notifications Details page includes information in two new fields discussed above: “Tribal Review Period End Date” and “Form 620/621 available on:”
  - Purpose: Provides easy identification of when Form 620/621 was made available for Tribal review, thereby triggering the review timeline.
- Under the “Notifications with Pending Referrals” section on the “Reply to Notifications” screen, the “20-day Letters – Proposed Projects Requiring Immediate Attention” has been updated to reflect the Commission’s new timing requirements and now reads “15-day Letters – Proposed Projects Requiring Immediate Attention.”
  - Purpose: Reflects the change made in the *2018 Infrastructure Second Report and Order* reducing the response time for Tribal reviews following FCC referral from 20 days to 15 days.

#### **Applications Pending on Effective Date and Withdrawal of Applications Pending on Effective Date**

All applications *filed* in TCNS and/or E-106 will be processed under the rules and procedures in place on the filing date. The changes adopted in the Order, including the changes and updates to the TCNS and E-106 processes described in this Public Notice, will apply only to filings submitted *on or after* July 2, 2018.

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<sup>7</sup> 2018 *Infrastructure Second Report and Order*, para. 111.

<sup>8</sup> This mirrors the change made to the applicant and consultant’s section discussed above, and again is identical to Question No. 18 on the Form 621.

Applicants may abandon pending applications (by updating the Status of the notification to “Abandoned”) and re-submit them on or after July 2, 2018, in which case the *2018 Infrastructure Second Report and Order* and changes discussed in this Public Notice would apply to the resubmissions. In such cases, Applicants are encouraged to note that an application has been re-filed and include the earlier notification number in the new submission. Note that review periods for resubmitted notifications will reset to reflect the date of the new filing. Additionally, for Tribal response deadlines that fall during the period from July 2 through July 5, 2018 when TCNS is inaccessible, Commission staff will extend those deadlines to July 6, 2018.

All parties should take notice that rules and processes in place before the effective date will continue to govern any submission initiated before July 2, 2018, regardless of information in TCNS/E-106 that might indicate otherwise.<sup>9</sup>

For additional information about the transition process, please contact Leon Jackler, at [leon.jackler@fcc.gov](mailto:leon.jackler@fcc.gov) or (202) 418-0946.

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<sup>9</sup> For example, when an applicant refers a notification that was filed before July 2, it will be expected to previously have contacted the Tribe twice, even though as of July 2, TCNS will only provide space for the applicant to enter a single contact date.